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FISCAL IMPACT STATEMENT

LS 6969

BILL NUMBER: HB 1254

NOTE PREPARED: Jan 8, 2012

BILL AMENDED:

SUBJECT: Township Reorganization.

FIRST AUTHOR: Rep. Foley

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Employee Resignation: It provides that an employee of a political subdivision is considered to have resigned from employment with the political subdivision if the employee assumes the elected executive office of the political subdivision or becomes a member of the political subdivision's legislative or fiscal body. It makes this resignation provision apply to an employee of a political subdivision who assumes an elected office after June 30, 2013. The bill specifies that this provision does not prohibit an employee of a political subdivision from holding an elected office of a political subdivision other than the political subdivision that employs the government employee.

Interim Study Committee on Township Assistance Standards: The bill establishes an interim study committee to provide recommendations on making the statutes concerning township assistance standards clear, concise, and easy to interpret and apply.

Elimination of Township Boards: The bill eliminates township boards in all counties effective January 1, 2015. It specifies that after December 31, 2014, in all counties: (1) the county fiscal body is the fiscal body and legislative body of the township; and (2) the county fiscal body shall exercise the legislative and fiscal powers assigned in the Indiana Code to township boards, including the authority to adopt the township's annual budget and to levy township property taxes for township funds.

County Township Assistance: The bill requires all counties to establish uniform standards for the provision of township assistance throughout the county. It provides that after December 31, 2014, in all counties, a uniform township assistance tax rate is applied throughout the county.

Distressed Townships: The bill provides that provisions concerning a distressed township expire on January 1, 2015.

Public Vote on the Elimination of Township Government: The bill requires a public question to be placed on the ballot at the general election in November 2012 in all counties regarding the elimination of township government. It provides that in all counties other than Marion County, if a majority of the voters in a county vote "yes" on the public question all township powers and responsibilities are transferred to the county (including township assistance, fire protection, cemetery maintenance, weed control, parks, fence viewing, and any township libraries).

Transfer of Township Powers and Responsibilities- Other Counties: It provides that in all counties other than Marion County, if a majority of the voters in the county vote "no" on the public question, township powers and responsibilities are transferred as follows:

- (1) A county board of trustees is created consisting of all trustees in the county.
- (2) Beginning January 1, 2015, the responsibility for funding and providing township assistance is transferred to the county, with administration of township assistance by the township trustee in each township subject to the supervision of the county board of trustees.
- (3) Requires the county board of trustees to prepare a county plan, approved by the county legislative body, for providing township assistance in the county.
- (4) Transfers the responsibility for cemetery maintenance and weed control to the county executive or county executive's designee.
- (5) Provides that the township and township trustee maintain responsibility for parks and recreation, fence viewing, and libraries (if any).

Elimination of Township Government - Marion County: It provides that in Marion County, if a majority of the voters in the county vote "yes" on the public question:

- (1) All township powers and responsibilities are transferred to the county and consolidated city (including township assistance, cemetery maintenance, weed control, parks, and fence viewing);
- (2) Any remaining township fire departments or fire protection territories in the county are consolidated into the fire department of the consolidated city;
- (3) The responsibilities of the township trustee concerning township small claims court are transferred to the mayor and city-county council of the consolidated city; and
- (4) The operations of the township constables and township small claims courts are accounted for in the county budget beginning January 1, 2015.

It specifies that: (1) the small claims courts operate independently from the circuit and superior courts; and (2) except for adopting the budget and approving salaries, the city-county council does not have authority over a small claims court judge and the operations of a small claims court.

Transfer of Township Powers and Responsibilities- Marion County: It provides that in Marion County, if a majority of the voters of the county vote "no" on the public question, township powers and duties are not transferred to the county and consolidated city.

Fire Protection - Consolidated City: It authorizes the consolidation of an excluded city's fire department into the fire department of the consolidated city if: (1) the legislative body of the excluded city, after approval by the executive of the excluded city, adopts an ordinance approving the consolidation; and (2) the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving

the consolidation.

Fire Protection - Other Counties: It provides the following in counties other than Marion County:

- (1) The county legislative body must adopt the county fire protection and emergency services plan. (In counties with a county board of trustees, the county board of trustees adopts the initial plan and submits it to the county legislative body for review and approval.)
- (2) After December 31, 2014, the county executive is responsible for providing fire protection and emergency services in the unincorporated areas of the county as provided in the county fire plan, and the powers and duties of township government and the township trustee related to providing fire protection and emergency services in the unincorporated areas of the county are transferred to the county. Specifies the required elements of a county fire plan.
- (3) On January 1, 2015, all assets, debts, and contracts of a township connected with firefighting operations are transferred to the county. The bill requires the county to assume all township indebtedness related to fire protection and emergency services, and it provides that the county may levy property taxes to pay township indebtedness or lease rental obligations incurred by a township only in the geographic area of the township that originally issued the debt or entered into the lease rental agreement.
- (4) If a township is a participating unit in a fire protection territory as of January 1, 2015, the county shall on January 1, 2015, assume the powers, duties, rights, responsibilities, and obligations of the township for purposes of the fire protection territory law.
- (5) Establishes a county firefighting fund and levy and establishes county firefighting powers and duties that are similar to the current township firefighting powers and duties.
- (6) Specifies the maximum property tax levy for a county's firefighting fund.

Payment of Indebtedness: It specifies that after township government functions are transferred, the territory of the township comprises a taxing district for the payment of township indebtedness existing at the time of the transfer.

Fund Transfers: It provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, personnel, records, rights, contracts, and indebtedness. It requires the Department of Local Government Finance to adjust maximum permissible property tax levies and property tax rates as necessary to account for transfers of duties, powers, and obligations.

Prohibited Contracts: It specifies that a township in a county other than Marion County may not enter into a contract related to township assistance or fire protection or emergency services with a term that extends beyond December 31, 2014, unless the contract has been approved by the county legislative body.

County Merit System: It provides that in the case of a county to which firefighting duties and responsibilities are transferred from townships to the county after December 31, 2014, the county may establish a merit system for the county fire department.

Township Schools: It provides that if a school township exists in a county in which a public question to eliminate township government is approved, the school township shall reorganize under the school reorganization statutes before July 1, 2015.

Public Safety Answering Point: It provides that in a county other than Marion County, the county may not contain more than one public safety answering point (PSAP) after December 31, 2014. It specifies that in

a county other than Marion County, PSAP operators must adopt an interlocal agreement: (1) specifying the funding and staffing of the PSAP that after December 31, 2014, will serve the county; (2) providing that to the extent property taxes are used to fund the PSAP, those property taxes shall (beginning with property taxes first due and payable after December 31, 2014) be imposed at a uniform rate throughout the county; and (3) specifying the protocols to be followed by the PSAP.

It makes technical corrections.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Interim Study Committee on Township Assistance Standards:* This bill establishes a study committee to operate under the policies governing study committees adopted by the Legislative Council. The bill does not indicate the number of members on the study committee. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members, and \$16,500 per interim for committees with 16 members or more. [The study committee is to review the statutory provisions concerning township assistance standards and make recommendations to the General Assembly to codify and revise those statutes to make the statutes clear, concise, and easy to interpret and to apply.]

Division of Fire and Building Safety (DFBS): Costs could minimally increase for the DFBS to adopt a county plan for fire protection and emergency services if a county legislative body does not approve a plan submitted by the county board of trustees for the county.

State Board of Accounts (SBOA): The SBOA will incur additional reporting costs to summarize the data concerning county budgets, levies, and tax rates to be included in a statewide statistical report concerning township assistance.

Department of Local Government Finance (DLGF): The DLGF may not approve a county budget, if the county does not provide township assistance data to the SBOA. The DLGF will incur minimal additional cost to adjust a county's and a municipality's ad valorem property tax levy after a municipality elects to have the county provide fire protection and medical assistance services. Additionally, the DLGF will hold hearings in counties where 10 or more taxpayers have disagreed with a decision of the county executive and fiscal body to borrow money to purchase firefighting apparatus.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill provides for elimination of certain township functions and transfer of certain powers from the township trustee to the county, regardless of the outcome of a public vote on township elimination. It provides for the transfer of all township functions if the voters of the county choose to eliminate township government. The fiscal impact of these changes is indeterminate and will depend on the actions of the voters in eliminating township governments within the county and the plans adopted by the county boards. While savings will accrue to township residents, the county fiscal body, which fixes the compensation of officers, may increase compensation for county executive, legislative, and fiscal bodies that undertake additional responsibilities from the townships.

County Fiscal Body: The bill will increase costs for counties by making the county fiscal body the township fiscal and legislative body and by transferring some duties of the township trustee to the county executive, regardless of the outcome of the vote on township elimination. County councils and executives may require

additional meeting time to establish budgets, consider resolutions, and adopt plans for capital improvements. However, cost savings may result from the elimination of the three-member township boards.

Township Trustees and County Board of Township Trustees: In counties outside of Marion County, the township trustees within the county will form the county board of trustees to develop standards for township assistance that meet at least the minimum standards set in statute but that may vary by township within the county. The board is to appoint advisors, including at least one person employed by a faith-based human services provider agency, at least one person employed by a government-funded human services provider agency, and at least one person employed by a nonprofit human services provider agency. The board is to consider contracting with a service provider for township assistance and recognize and coordinate with other providers of relief for indigent persons. The plan is to be updated annually.

In a county outside of Marion County, if the voters do not eliminate township government, the township trustee is to administer township assistance. In Marion County and in other counties where the voters do eliminate township government, the county executive will appoint an administrator for township assistance. The administrator is to file an annual statistical report concerning township assistance with the county auditor.

In accordance with the county plan, the county board of trustees will hire township assistance personnel. The compensation for these employees will be fixed by the county fiscal body. All other functions concerning provision of township assistance will continue to be the responsibility of the township trustee or administrator under the authority of the county plan. The ability to hire personnel for a township are assigned to the township trustee under current law.

Marion County - Township Assistance: In Marion County, the county legislative body will adopt the county plan for township assistance. The legislative body is to appoint the same type of advisors as are appointed in other counties and is to determine any compensation for the advisors. The legislative body will hold two meetings concerning the plan with an opportunity for the public and interested party to comment.

Other than Marion County - Township Trustee: If the voters approve the elimination of township government within the county, the office of township trustee will be abolished beginning on January 1, 2015, and the county executive will be the executive of all townships in the county. A designee of the county executive will begin meeting with township trustees beginning January 1, 2013, concerning the transfer of powers and duties for cemeteries, high weeds and grass, detrimental plants, and parks. As well, a designee of the county executive will meet with the township trustee to prepare a plan for the delivery of township assistance on a countywide basis.

Fire Protection and Emergency Services: Regardless of a vote, the county board of trustees is to propose a plan for fire protection throughout the county that is reviewed at two public meetings and adopted by the county legislative body. If the voters eliminate township government, the county legislative body will be responsible for developing the plan (rather than the board of trustees) and will hold two public meetings to review the plan.

The county board of trustees is to serve as the safety board of the county, which will be similar to a municipal safety board for a municipal fire department. However, if the voters eliminate township government, the safety board will be established by the county legislative body with the members appointed by the county executive. The county executive will be responsible for fire protection in the unincorporated areas of the county using any combination of establishing a county fire department; contracting with or otherwise

cooperating with any municipality, county, fire protection district, volunteer fire department, fire protection territory, or other entity; or entering into mutual aid agreements to provide fire protection and emergency services in the unincorporated areas. The county executive will also provide weed control and cemetery maintenance. Other township trustee responsibilities such as fence viewing, parks and recreation, and libraries will remain with the township trustee, unless the voters eliminate township government.

Marion County - Fire Protection: All of the township fire departments that have not been incorporated into the Indianapolis Fire Department (IFD) will be incorporated if the voters eliminate township government in Marion County. Excluded city fire departments may be consolidated with IFD if agreed to by both the excluded city's legislative body and the city-county council.

Marion County - Townships Abolished: If the voters eliminate townships in Marion county, all township government is to be abolished effective January 1, 2015. Each township will retain its name and geographic boundaries. The county executive is to begin meeting with each township trustee, constable, and small claims court judge to plan the transfer of the duties, obligations, and responsibilities of the township to the county. The operations of the constable and small claims courts will be accounted for in the county budget, and the employees of the constable and small claims court become employees of the county. Township parks and township weed control are to be transferred to the consolidated city, as are all other operations not already transferred.

Township Schools: The bill provides that if a school township exists in a township in which a public question to eliminate township government is approved, the school township shall reorganize under the school reorganization statutes before January 1, 2014. It provides that school board members selected by election must be elected at general elections beginning in 2012. It repeals provisions related to the election of school board members at the primary election.

Background and Additional Information -

Township Board Members: There are a total of 1,006 townships in Indiana, with 9 townships in Marion County having seven-member township boards and 997 outside of Marion County having three-member township boards. The number of townships per county varies between 4 and 21, with the largest number of counties having 12 townships.

There are an estimated 3,054 township board members statewide. Currently, the township board is the legislative body of the township, and the township trustee is the township executive. The legislative body of a township fixes the salaries for the members of the township board. There is no single, statewide repository of township board member salaries. However, the township board compensation of 944 townships was available for review. The salaries range from \$100 to \$21,400 per year, with the statewide median salary being \$500. With three township board members, the savings per township would range from \$300 to \$64,200, and most townships would save on average \$1,500. Statewide savings for the 944 townships reporting would be \$2.4 M.

Township Trustees: With data available from 951 townships, the median salary for a township trustee is \$7,200 a year, with salaries ranging between \$280 and \$81,200. Township trustees will be eliminated in the entire county if voters vote to eliminate township government. Under the bill, township trustee duties would change, but there are no data to indicate if the change in duties will change the compensation of the township trustee. The compensation would be decided by the county fiscal body.

County Fire Protection: The county executive will provide fire protection and emergency services in all unincorporated areas of the county either by directly providing the services or contracting or cooperating with a municipality in the county or by contracting with a volunteer fire department. If the county provides services directly, the county will give preference in hiring to war veterans and then to persons whose parent was a firefighter of the unit, a municipal police officer, or a county police officer. For a municipality without a full-time paid fire department, the county may provide fire protection or emergency services without contract if the county approves a resolution and the municipality approves an ordinance allowing it.

Consolidation of Township Fire Departments in Marion County: Five township fire departments have merged with the Indianapolis Fire Department under current law provisions for voluntary consolidation. According to an audit of the merger, for the five-year period 2006 to 2010, fire protection costs increased 9.8% in the consolidated townships, while costs in the other townships (including townships that will be merging) increased 18.9%. Combined staffing levels for the consolidated townships are 2.7% less than prior to consolidation and 17 (27%) of the management positions have been eliminated. The table below shows the fire-related fund expenditures by township. In addition to these common funds, Franklin Township spent \$624,692 from the Fire Building Debt Fund and Warren Township spent \$21,291 from its Fire Pension Fund.

2010 Fire-Related Fund Expenditures						
Township	Date of Consol.	Fire Protection Fund	Cumulative Fire Fund	Fire Debt Fund	Fire Bldg Debt Fund	Total All Fire Funds
Center		0	0	0	0	0
Decatur		10,803,503	486,798	1,896,988	0	13,187,289
Franklin	7/1/2010	16,541,205	590,033	52,484	624,691	17,808,413
Lawrence	1/1/2011	23,740,063	3,233,315	0	0	26,973,378
Perry	8/1/2009	5,422,625	429,274	0	0	5,851,899
Pike		19,982,583	597,119	4,323,025	0	24,902,727
Warren	7/1/2007	0	0	0	0	0
Washington	1/1/2007	0	0	0	0	0
Wayne		44,801,736	183,777	0	0	45,364,377
Totals		121,670,579	5,520,316	6,272,497	624,691	134,088,083
Source: <i>Township 2010 Annual Report</i> , Part 3A.						

Explanation of Local Revenues: *County Township Assistance Fund:* The county township assistance fund is established under the bill for Marion County if voters eliminate township government, and in all other counties regardless of any vote. Beginning with taxes payable in 2015, each county with a township assistance fund would impose a countywide tax rate for township assistance (TA).

The county fiscal body is to estimate the total cost of TA in the county for the following year and adopt a uniform county tax rate after 2015 to meet the estimated costs. The taxes levied for TA are to be placed in the fund, and the money in the fund is to be used to pay the expenses and obligations set forth in the annual budget. Drugs and vaccines provided to indigents are to be paid through the county assistance fund. Money in the fund at the end of the year does not revert to the county general fund.

TA tax rates for 2011 were examined to illustrate the effect of this provision if it had been in place for 2011. TA levies totaled \$45.6 M in 2011. Tax rates ranged from \$0.0000 in 147 townships to \$0.4359 in Calumet Township, Lake County. County average rates would have ranged from \$0.0018 to \$0.0801. The largest increase of 648 townships would have been \$0.0783 and the largest decrease of 356 townships would have been \$0.3558. About \$20.6 M in levies would have been shifted between taxpayers in different townships. The change in tax rates by township would have an effect on net tax bills and circuit breaker losses. Net taxes for some taxpayers would increase, while tax bills for other taxpayers would decrease. Overall net tax would increase by an estimated \$11 M. Total TIF proceeds would increase by about \$600,000. Similarly, circuit breaker losses would increase by \$6.0 M for about 834 taxing units while losses for 1,235 taxing units would decline by \$19 M. Overall there would be a \$13 M reduction in circuit breaker losses. There would be no change for 974 taxing units.

Obligations for Fire Protection and Emergency Services: A county may levy property tax in the geographic area of the township that originally issued debt or entered into a lease rental agreement to pay the township indebtedness or lease obligation.

LOIT for Public Safety: The distributive share of a public safety local option income tax that would have been paid to the township will instead be paid to the county beginning in 2015.

County Firefighting Fund: The county will establish a county firefighting fund to pay the costs of providing fire protection and emergency services. The county may levy a property tax on all real and personal property outside the corporate boundaries of municipalities. The township fire maximum levies would be transferred to the county.

Marion County: For a three-year period, the consolidated city may levy a tax above the maximum permissible property tax levy for the fire special service district in each township or excluded city that is necessary to phase out any borrowing for fire and emergency services.

Taxes and Fund Balances: In counties outside of Marion County, if township government is eliminated, the county, within the county's maximum permissible property tax levy, may levy taxes for payment of certain pension benefits. The balances in the township general fund and the township assistance fund attributable to the duties of the township trustee transfer to the county.

Local Option Income Taxes: Under current law, Marion County may use part of its COIT distribution to fund homestead credits, the Metropolitan Emergency Communications Agency (MECA), the IndyGo transportation service, and the Indianapolis-Marion County Public Library (IMCPL). The remaining COIT revenue is distributed to several civil taxing units (not schools) under a formula that applies only in Marion County. This provision would transfer the townships' portions of certified shares to the city/county.

Marion County - Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund in an account for each small claims court. In 2010, Marion County small claims courts generated a total of \$4.8 M, including \$1.6 M in state funds, \$135,411 in county funds, and \$3.1 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2010, Marion County small claims courts received \$309,427 for serving process by certified mail and almost \$2.0 M for service of process by personal service.

Marion County - Township Funds: The balance in the township debt service fund will transfer to the county

and be used to pay the indebtedness or lease rentals for which the fund was created. Funds in the township general fund attributable to the duties of the township trustee transfer, other than fire protection funds, transfer to the county. Funds in the township assistance fund attributable to the township trustee transfer to the county township assistance fund.

Marion County - Maximum Permissible Property Tax Levy: Marion County's maximum permissible property tax levy for taxes first due and payable in 2015 will increase by an amount equal to the amount for all the townships for fire protection and for township assistance and the maximum permissible property tax levy for other governmental functions assumed by the county. Taxing districts will be abolished when the indebtedness for which they were created is paid.

State Agencies Affected: DFBS; SBOA; DLGF.

Local Agencies Affected: Counties and Townships; Civil taxing units and school corporations.

Information Sources: LSA Property Tax Databases; Indiana Transparency Portal.

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